

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JAMES J. BIRGE,

Plaintiff,

Case No. 20-cv-84

v.

KILOLO KIJAKAZI,

Defendant.

**ORDER GRANTING DEFENDANT'S UNOPPOSED MOTION TO DISMISS
(DKT. NO. 12)**

On April 1, 2020, the defendant filed a motion to remand the plaintiff's case for further administrative action under sentence six of 42 U.S.C. §405(g). Dkt. 10. The plaintiff did not oppose the motion. Id. On April 2, 2020, the court granted the defendant's motion. Dkt. 11. The court ordered the Appeals Council to remand the plaintiff's case to an administrative law judge and instruct the ALJ to offer the plaintiff the opportunity for a new hearing; consider any additional evidence; further evaluate the plaintiff's pulmonary medically determinable impairment at step two of the sequential evaluation process; further consider Dr. Poulette's opinion under 20 C.F.R. §416.927; proceed through the sequential evaluation process as necessary; and issue a new decision. Id. Because this court ordered a remand under sentence six of 42 U.S.C. §405(g), it retained jurisdiction and did not issue a final judgment. Dkt. 10.

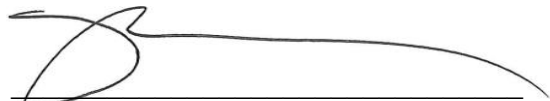
Following the court's order, on June 8, 2020, the Appeals Council remanded the plaintiff's case to an ALJ. The ALJ held a hearing on September 25, 2020. On September 30, 2020, the ALJ issued a decision that based on the plaintiff's July 10, 2017, application for supplemental security benefits, the plaintiff has been disabled since July 10, 2017. Based on the ALJ's September 30, 2020 decision, the plaintiff has prevailed in his complaint. Therefore, on August 19, 2021, the defendant moved to dismiss the plaintiff's complaint with prejudice and issue final judgment. The plaintiff did not oppose the defendant's motion.

The court **GRANTS** the defendant's unopposed motion to dismiss. Dkt. No. 12.

The court **ORDERS** that this case is **DISMISSED WITH PREJUDICE**. The clerk will enter judgment accordingly.

Dated in Milwaukee, Wisconsin, this 23rd day of August, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge